
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

MARK C.,
Plaintiff,

vs.

MARTIN O'MALLEY, Commissioner of the
Social Security Administration,
Defendant.

**MEMORANDUM DECISION AND
ORDER ADOPTING [13] REPORT
AND RECOMMENDATION**

Civil No. 2:23-cv-00699

Judge David Barlow

The Report and Recommendation¹ issued by United States Magistrate Judge Daphne A. Oberg on June 5, 2024, recommends that the court grant Defendant's Motion for Summary Judgment.²

Judge Oberg recommends granting Defendant's Motion for Summary Judgment for two reasons. First, because Plaintiff untimely filed his complaint, and second, because Plaintiff failed to show he is entitled to equitable tolling.³

The parties were notified of their right to file objections to the Report and Recommendation within fourteen days of its service pursuant to 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72.⁴ No party filed an objection.

¹ Report and Recommendation, ECF No. 13, filed June 5, 2024.

² On December 1, 2023, Defendant filed a Motion to Dismiss. Plaintiff filed an Opposition to the Motion to Dismiss on December 15, 2023. Judge Oberg converted the Motion to Dismiss to a Motion for Summary Judgment on March 14, 2024, given that both parties presented material outside of the pleadings in support of their briefing. *See* Defendant's Motion to Dismiss Pursuant to Fed. R. of Civ. P. 12(B)(6), ECF No. 9, filed Dec. 1, 2023; Plaintiff's Memorandum in Opposition to Commissioner's Motion to Dismiss, ECF No. 10, filed Dec. 15, 2023; Order Converting Motion to Dismiss to a Motion for Summary Judgment, ECF No. 12, filed Mar. 14, 2024.

³ ECF No. 13, at 2.

⁴ *Id.* at 7–8.

Because no party filed a written objection to the Report and Recommendation by the specified deadline, and because the analysis and conclusions of the Magistrate Judge are sound, the Report and Recommendation is adopted.

ORDER

IT IS HEREBY ORDERED that the Report and Recommendation is ADOPTED.⁵
Defendant's Motion for Summary Judgment is GRANTED.⁶

Signed June 28, 2024.

BY THE COURT:



David Barlow
United States District Court Judge

⁵ ECF No. 13.

⁶ ECF No. 9; ECF No. 12.